

**TESTIMONY OF GREGORY FISCHBACH, FOUNDER/CO-CHAIRMAN/CEO  
ACCLAIM ENTERTAINMENT, INC.  
BEFORE THE SENATE COMMITTEE ON COMMERCE  
SEPTEMBER 13, 2000**

Good Morning, My name is Gregory Fischbach, and I am the founder, co-chairman, and CEO of Acclaim Entertainment, one of the leading independent software publishers in the video game industry.

Acclaim Entertainment was established in early 1987 and publishes software for all of the leading hardware systems. In addition, Acclaim also publishes comic books and strategy guides.

Acclaim's corporate offices are located in Glen Cove, New York, and our other domestic offices are located in Salt Lake, Cincinnati, San Francisco and Austin. Acclaim software is distributed worldwide through an international organization that maintains marketing, sales and distribution facilities in all of our major markets.

As a veteran in the video game industry, I am a long time supporter of the Interactive Digital Software Association (IDSA), our industry's trade organization and currently serve as Chair of the IDSA Board of Directors. In addition, I strongly support and endorse the work of the Entertainment Software Rating Board (ESRB). The ESRB was established in 1995 with the primary purpose of establishing and maintaining a universal rating system for entertainment software.

All Acclaim software, whether published internally or only distributed by our company, carries an ESRB rating. Furthermore, Acclaim complies with all the ESRB advertising standards and guidelines, including placing of rating icons and content information on packaging and in advertising.

Five years ago, Acclaim established a website to support the sales and marketing of our software. This site carries the ESRBi seal of approval which means it is actively monitored by the ESRBi, complying with all of its standards.

In this hyper-accelerated new media world, think back a minute. The first video games were developed in the middle 70's. The ability of a consumer to control the movement of an object on the screen was considered revolutionary at that time.

In 1977, the introduction of the hugely popular Atari 2600 and a game called PONG created a new generation called video gamers. The Atari machine's price initially targeted it towards older kids; but as the technology improved, prices came down, the games became more sophisticated, and the audience broadened.

Today, the original gamers who grew up playing their Atari machines and the hardware that followed are now an average age of 30. And they are still gamers. As the game machines progressed, the games and the game play features became more intricate, and the plots and game play became more immersive.

At the same time the game machines were improving, the user demographics broadened. Software wasn't just aimed at the 12 to 18 year old male audience. Today, video games are as mainstream as CD's and games are being developed for people of all ages and genders. From POKEMON to WHO WANTS TO BE A MILLIONAIRE, there's something for everyone.

The issue, as I understand it, is appropriately marketing video game entertainment at a time when the demographics of gaming is broadening so rapidly. I believe we are making great strides with the ESRB rating system, the new ESRB Advertising Review Council and its Principles and Guidelines for Responsible Advertising Practices. However, we need to continually work at it and evolve with the changing business environment in which we operate. Video game publishers must take direct responsibility for how and to whom we market our games. As the demographics continue to expand, so must we expand our efforts to ensure that the marketing of video game entertainment is responsible.

I am pleased that the FTC recognized in its report the electronic entertainment industry is taking important steps to make its existing codes that prohibit target marketing to children even more effective. And we are not only encouraging our colleagues in the retail sector to enforce rating systems, we are also escalating efforts to make parents aware of the video game rating system. In this regard, we are proud that golfer Tiger Woods filmed a PSA for the ESRB last fall urging parents to "check the ratings" to determine which games are right for them.

But we need to do more. We, as publishers need to take steps to ensure that we comply with the established code of conduct, including the anti-targeting provisions and we definitely need to work further to elevate parents' awareness and understanding of the ratings system. It's an ongoing process, and I believe we are all committed to improving it.

Just who is the younger generation that we're talking about? There are 60 million 5-20 year olds; three times larger than Generation X, and the biggest blip on the American economic screen since the baby boom. They are very independent, have a strong sense of self worth and are active in environmental and social causes. Throughout their entire young lives, they have been bombarded with information from TV, radio, the Internet and print. This media-saturated generation is extremely marketing savvy.

Acclaim begins its marketing plans at the initial stages of product development. We develop games for a variety of different interests, and attempt to develop titles that best satisfy those demands. We do this by collaborating with our retailers to gauge what their customers want as well as by conducting our own research to determine what types of games consumers are interested in. This is the basis on which we develop our tactical marketing plans on building awareness and interest in our products.

Acclaim presently publishes very few "M" rated games; but for those titles we do publish, we are very careful to target our marketing efforts to the appropriate audience. We strictly adhere to IDSA's guidelines and work closely with the publications, websites, TV and radio stations to evaluate the advertising beforehand and make changes where necessary. For example, we confine our print advertising to the publications that cater to our core audience and do not advertise in mass market books. For TV advertising, we restrict our media buys to post 10:00pm programming and conform the commercials in collaboration with the specific cable and network clearance departments.

In response to the FTC request for information from our company, we uncovered a marketing plan that did recommend targeting of a Mature game to persons for whom it was not appropriate. In fact, we never implemented the plan, but we have nonetheless taken steps internally to make sure our marketing plans are properly prepared.

In terms of the advertising media, our primary advertising vehicle is print. Naturally we choose publications that cover our industry and our products. The highest circulation amongst these publications reaches a maximum of 500,000 consumers. Definitely not mass market. Mass media like television is becoming less important for us. It has become too hard to target a particular demographic, rendering TV both inaccurate and ineffective. It is also hard to control who is viewing our TV ad content regardless of which time slots or programs we purchase. On the other hand, we can place content more efficiently on the Internet and can also control who is viewing our information more effectively.

Having said all that, we know from research what leads consumers to their purchase decisions. According to a recent study conducted by FairField Research, the number one factor in making a purchase decision is game rental followed in order: by playing a friend's copy, trying the game in store, reading magazine reviews, word of mouth and reading game packaging in store. Then follows print advertising, TV advertising, point of sale advertising and website information. So while magazine advertising is important to us, it is not, in fact, the primary driver in our marketing plans. Which leads me to my last point.

Perhaps the most outstanding revelation about this youth culture is that they admire their parents and the opinions of their parents. What's more, 97% of them actually say – out loud and proud – that they like their parents and consider them confidants and friends. While the Baby Boomers mantra was “Don't trust anyone over 30,” 94% of today's youth trust their parents and 8 out of 10 state they often have “really important” talks with their parents. Game publishers and marketers must understand the importance and value of this core relationship as it relates to home entertainment. Similarly, parents must understand that they not only have the responsibility, but the opportunity, as the FTC said, to be involved in the entertainment decisions of their children.

The variety and complexity of today's entertainment options may have become too unwieldy a task for any parent alone. Between books, magazines, movies, music, cellular phones, TV and the Internet, many parents need assistance in making intelligent choices for their children. Because of our prominent role in the electronic entertainment industry, Acclaim not only supports strong self-regulation; we are setting an example for our industry. We are committed to continually re-examine our own and our industry's efforts to ensure that we're getting the job done.

Thank you for the opportunity to participate in this effort.